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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,453	03/15/2004	Yo Matsutani	44471/298561	1214

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EXAMINER

BOES, TERENCE

ART UNIT	PAPER NUMBER
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3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/800,453

Applicant(s)

MATSUTANI, YO

Examiner

Terence Boes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

- First wall
- Second Wall
- Third Wall
- Fourth Wall

The examiner notes that reference characters, corresponding to the detailed description, and indicating these walls are not provided.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- A first fitting face (as in claim 2)
- A second fitting face (as in claim 2)
- Longitudinal fitting face (as in claim 8)
- Transverse fitting face (as in claim 8)
- First joint face (as in claim 13)
- Second joint face (as in claim 13)

Furthermore, the following elements, while described in the summary of the invention, are not adequately described (with reference characters) in the detailed description of the drawings so as to clearly describe the claimed subject matter.

- First wall
- Second wall
- Third wall
- Fourth wall

Claim Objections

3. Claims 6 and 13 are objected to because of the following informalities:
- the term "axe" in claim 6 appears to be a typographical error of the term --are--.
 - The recitation "extending transversely each other" in claim 13 appears to be a typographical error. The examiner suggests --extending transversely to each other--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitations "the remains" in lines 4 and 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites "a rear end" in line 4, rendering the claim indefinite. It is unclear as to which end is "a rear end". The claim does not provide a relative basis for the term "rear".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-6, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuno et al. (US 6,568,295).

Matsuno et al. disclose:

- a cross-car-beam (see structure through which bolts b extend in figure 1);
- a shift lever device (1) having a device body (7, 10, 11) and a rod (3) being slidably supported by the cross-car-beam
- a fitting (5, 6) configured to fix the shift lever to the cross-car-beam
- a base (4 and portion of 5 not containing holes 5b) fixing the device body of the shift lever thereto
- a first wall (6) extending from the base and fixed to the cross-car-beam (first wall is fixed to cross car beam via 5)
- a second wall (see figures 2 and 7, portion of 5 with holes 5b) extending from the base transversely of the first wall and fixed to the cross-car-beam
- a third wall (see portion of 4 indicated by reference character 4 in figure 4) extending from first wall

- a fourth wall (see longitudinal portion of 5 not containing holes 5b) interconnecting the second wall and the third wall and extending side-by-side with the third wall
- wherein the first wall and fourth wall define elongated holes(5a and 6a)
- wherein the device body (7, 10, 11) is enclosed by the first wall, second wall and the base (see figures 2, 4, and 7)
- wherein the device body (7, 10, 11) comprises a shaft (7) inserted in the elongated holes (see figure 4)
- wherein the elongated holes are formed to support the shaft to be longitudinally slidable therein (see figures 2 and 7, force F slides shaft 7 in direction a)
- wherein the elongated holes are formed with a rear end and the remains of the elongated holes with a narrower width than a diameter of the shaft, the shaft is fitted in the rear end so that the remains prevents the shaft from moving into the remains from the rear end (see figures 5 and 6, C4/L18-40).
- wherein the first wall, the second wall, and the base are integrated with each other (see figure 4)

6. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. US 6,526,842.

Tanaka et al. disclose:

- a cross-car-beam (21);
- a shift lever device (4a); and
- a fitting configured to fix the shift lever device to the cross-car-beam and including a first joint face (5a) abutted on and fastened to the cross-car-beam; and a second joint face (5b) abutted on and fastened to the cross-car-beam, the first joint face and the second joint face extending transversely each other.

7. Claims 1, 2 and 7, are rejected under 35 U.S.C. 102(b) as being anticipated by Loofbourrow US 2,884,802.

Loofbourrow discloses:

- a cross-car-beam (30)
- a shift lever device having a device body (80, 62, 56) and a rod (84) being slidably supported by the device body and
- a fitting (38, 34, 36) configured to fix the shift lever device to the cross-car-beam;
- the fitting comprising:
- a base (38) fixing the device body of the shift lever thereto;

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- a first wall (44) extending from the base and fixed to the cross-car-beam;
and
- a second wall (42) extending from the base transversely of the first wall
and fixed to the cross-ear-beam.
- wherein the cross-car-beam includes a support (34, 36),
- wherein the support comprises:
- a first fitting face (36) opposed to the first wall, the first wall abutted on and
fixed to the first fitting face; and
- a second fitting face (34) extending transversely of the first fitting face and
opposed to the second wall, the second wall abutted on and fixed to the
second fitting face.
- Wherein the cross-car-beam comprises a rib (see 28 in figure 3)

Claims 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by
Rhodes Et al US 3,465,559.

Rhodes et al. disclose:

- a cross-car-beam (10) extending in a vehicle transverse direction and
including a support (see screw and nut connection shown in figure 5 at 36
and 38 including fitting face of 10 shown abutted against 38 and 38);
- a shift lever device (figure 3) having a device body (60, 62) and a rod (24)
being slidably supported by the device body; and
- a fitting (32, 34, 36, 38) configured to fix the shift lever device to the cross-
car-beam;

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- wherein the fitting comprises:
- a longitudinal wall (36) extending in a vehicle longitudinal direction; a transverse wall (38) extending in the vehicle transverse direction; and a connecting wall (40) interconnecting the longitudinal wall and the transverse wall (**transverse**: is defined by Merriam Webster's Collegiate Dictionary Tenth Edition as "being across", 34 is across from 32)
- wherein the support comprises:
- a longitudinal fitting face (see figure 5, face is portion of 10 opposed to 36) extending in the vehicle longitudinal direction and opposed to the longitudinal wall; and
- a transverse fitting face (see figure 5, face is portion of 10 opposed to 38) extending in the vehicle transverse direction and opposed to the transverse wall,
- wherein the longitudinal wall and the transverse wall are abutted on and fixed to the longitudinal fitting face and the transverse fitting face respectively (see figure 5).
- wherein the longitudinal wall, the transverse wall, and the connecting wall are integrated with each other.
- wherein the cross-car-beam comprises a rib (16) in a circumferential direction (rib has radii extending to 12 and 14), wherein the support is provided on the rib (see figure 4).

Allowable Subject Matter

8. Claims 9 and 10 are allowed.

Response to Arguments

9. Applicant's arguments with respect to claims 2-7 have been considered but are moot in view of the new ground(s) of rejection.
10. Applicant's arguments filed 12/27/2006 have been fully considered but they are not persuasive.

The applicant argues "...the claimed fitting is distinguishable from the plates [of Matsuno] since the fitting requires a first wall extending from the base and fixed to the cross-car-beam and a second wall extending from the base transversely of the first wall and fixed to the cross-car-beam"

In response, Matsuno discloses a first wall (6) extending from the base and fixed to the cross-car-beam (first wall is fixed to cross car beam via 4 and 5). Matsuno also discloses a second wall extending from the base transversely of the first wall and fixed to the cross-car-beam (see figures 2 and 7, portion of 5 with holes 5b).

The applicant argues "...that Rhodes describes a cross-car-beam with a support and cited element 10 of Rhodes and the mounting holes with screws illustrated by Figure 5. Claim 8 requires that the longitudinal wall and the transverse wall of the fitting are abutted on and fixed to the longitudinal fitting face and the transverse fitting face of

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the support respectively. Rhodes does not describe the claimed relationship between the support and the fitting since Rhodes only illustrates mounting holes with screws.

In response, Rhodes discloses a cross-car-beam (10) extending in a vehicle transverse direction and including a support (see screw and nut connection shown in figure 5 at 36 and 38 including fitting face of 10 shown abutted against 36 and 38);

The applicant argues, "... Claim 8 requires a shift lever device having a device body and a rod slidably supported by the device body. Rhodes describes a shift lever 24 that is slidably supported by a bracket 28. Rhodes does not describe the claimed shift lever since Rhodes describes that the shift lever is supported by the bracket rather than a shift lever device body."

In response, Rhodes discloses a shift lever device (figure 3) having a device body (60, 62) and a rod (24) being slidably supported by the device body (see rod 24 sliding in figure 4);

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terence Boes whose telephone number is (571) 272-4898. The examiner can normally be reached on Monday - Friday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/21/07



RICHARD RIDLEY
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